

of canning are clearly within the definition of “canning” as contemplated by Congress and cannot be viewed in isolation from the canning process as a whole. Exempt preparatory operations include the necessary weighing, cleaning, picking, peeling, shucking, cutting, heating, cooling, steaming, mixing, cooking, carrying, conveying, and transferring to the containers the exempt aquatic products (see *Mitchell v. Stinson*, 217 F. 2d 214). But the preparatory operations do not include operations specified in section 13(a)(5) pertaining to the acquisition of the exempt products from nature. Therefore, if a canner employs fishermen or others to catch, take, harvest, cultivate or farm aquatic animal and vegetable life, section 13(a)(5) and not section 13(b)(4) would apply to these particular operations.

§ 784.144 Preliminary processing by the canner.

The mere fact that operations preparatory to canning are physically separated from the main canning operations of hermetically sealing and sterilizing or pasteurizing would not be sufficient to remove them from the scope of section 13(b)(4). Where preparatory operations such as the steaming or shucking of oysters are performed in an establishment owned, operated, or controlled by a canner of seafood as part of a process consisting of continuous series of operations in which such products are hermetically sealed in containers and sterilized or pasteurized, all employees who perform any part of such series of operations on any portion of such aquatic products for canning purposes are within the scope of the term “canning.”

§ 784.145 Preliminary processing by another employer as part of “canning.”

If the operations of separate processors are integrated in producing canned seafood products all employees of such processors who perform any part of the described continuous series of operations to accomplish this result would be “employed in the canning of” such products. Moreover, preliminary operations performed in a separately owned processing establishment which

are directed toward the particular requirements of a cannery pursuant to some definite arrangement between the operators of the two establishments would generally appear to be integrated with the cannery operations within the meaning of the above principles, so that the employees engaged in the preliminary operations in the separate establishment would be employed in “canning” within the meaning of section 13(b)(4) of the Act. Whether or not integration exists in a specific case of this general nature will depend, of course, upon all the relevant facts and circumstances in such case.

§ 784.146 “Subsequent operations.”

Canning, within the meaning of the exemption, includes operations performed after hermetic sealing of the cans or other containers, such as labeling of them and placing of them in cases or boxes, which are required to place the canned product in the form in which it will be sold or shipped by the canner. This is so whether or not such operations immediately follow the actual canning operations as a part of an uninterrupted process. Storing and shipping operations performed by the employees of the cannery in connection with its canned products, during weeks in which canning operations are going on, to make room for the canned products coming off the line or to make storage room, come within the exemption. The fact that such activities relate in part to products canned during the previous weeks or seasons would not affect the application of the exemption, provided canning operations such as hermetic sealing and sterilizing, or labeling, are currently being carried on.

§ 784.147 Employees “employed in” canning.

All employees whose activities are directly and necessarily a part of the canning of the specified aquatic forms of life are within the exemption provided by section 13(b)(4). Thus, employees engaged in handling the fish or seafood, placing it into the cans, providing steam for cooking it or operating the machinery that seals the cans or the equipment that sterilizes the canned